

MATTER OF OLIVEIRA

In Deportation Proceedings

A-14678566

*Decided by Board March 6, 1970*

In a finding of deportability under section 241(c) of the Immigration and Nationality Act, the *Woodby* burden of proof is met by clear, unequivocal and convincing evidence that the alien's marriage took place less than 2 years prior to his entry, and that the marriage was judicially terminated within 2 years after entry.

CHARGE:

Order: Act of 1952—Sections 241(a) (2) and 241(c) [8 U.S.C. 1251(a) (2) and 1251(c)]—Entered with visa procured through marriage fraud.

ON BEHALF OF RESPONDENT:  
Arlin W. Hargreaves, Esquire  
30 Hotaling Place  
San Francisco, California 94111  
Robert S. Bixby, Esquire  
(Brief filed)

ON BEHALF OF SERVICE:  
R. A. Vielhaber  
Appellate Trial Attorney  
Stephen M. Suffin  
Trial Attorney  
(Brief filed)

The case comes forward on appeal from the decision of the special inquiry officer who found respondent deportable as charged and ordered that he be deported to Portugal. There was no request for voluntary departure.

The respondent is a 32-year-old divorced male alien, a native and citizen of Portugal, who entered the United States at New York on February 27, 1965, being then admitted as a nonquota immigrant upon presentation of an immigrant visa issued to him as the spouse of a United States citizen. His marriage, which took place at Lisbon, Portugal on December 18, 1964, was to one Rose Marie Vasquez, a native born citizen of the United States. Both testified that the marriage was consummated and that the day following the wedding she returned to the United States. Respondent followed ten weeks later. They never lived together in